

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 CLIFFORD COOK,

12 Plaintiff, No. C 07-02569 CRB

13 v. ORDER

14 SAN FRANCISCO CITY AND COUNTY,
15 et al.,

16 Defendants. /

17 Now pending before the Court is plaintiff's motion to dismiss without prejudice his
18 two remaining claims: a California Fair Employment and Housing Act ("FEHA") claim and
19 a Title VII claim. After carefully considering the parties' papers, the Court concludes that
20 oral argument is unnecessary, see Local Rule 7-1(b), and GRANTS plaintiff's motion.21 The Court previously dismissed plaintiff's section 1983 due process claim without
22 leave to amend and by separate order granted defendants summary judgment on plaintiff's
23 remaining section 1983 claims. Plaintiff now seeks to dismiss his Title VII and FEHA
24 claims without prejudice so that he may pursue the FEHA claim in state court. While he
25 does not wish to pursue his Title VII claim, he is concerned that dismissal of that claim with
26 prejudice will bar him from proceeding with his FEHA claim.27 Plaintiff's motion to dismiss without prejudice is GRANTED. Defendants are not
28 prejudiced by this ruling as the proceedings in this Court have focused on the

1 Section 1983 claim. Moreover, the Supreme Court has stated, and the Ninth Circuit has
2 often repeated, that “in the usual case in which all federal-law claims are eliminated before
3 trial, the balance of factors . . . will point toward declining to exercise jurisdiction over the
4 remaining state-law claims.” Carnegie- Mellon Univ. v. Cohill, 484 U.S. 343, 350 n.7
5 (1988). As plaintiff does not wish to pursue his Title VII claim, a state court should decide
6 his remaining state law FEHA claim.

7 **IT IS SO ORDERED.**

8 Dated: July 21, 2008



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10 CHARLES R. BREYER
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12 UNITED STATES DISTRICT JUDGE
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